

REMARKS

Claims 9, 10, 12 and 15-21 were pending in the application at the time of the Office Action. Claims 9, 10, 12 and 15-21 were rejected under 35 U.S.C. 103. Claim 11 was previously cancelled. By this response, Applicant has cancelled claims 1-8, 13-14 and 22-34 without prejudice or disclaimer¹, amended claim 9 and added new claims 35. Applicant respectfully submits that the amendment to the claims are based in the specification as originally filed and that no new matter has been added. Entry of the claim amendments is respectfully requested. As such, claims 9-10, 12, 15-21 and 35 are presented for the Examiner's consideration in light of the following remarks.

Reconsideration and allowance of the application is respectfully requested in view of the above amendments to the claims and the following remarks. Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

A. Examiner Interview

Applicant(s) and applicant's attorney express appreciation to the Examiner for the courtesies extended during the recent interview held on February 4, 2009. This response includes the substance of the Interview.

B. Restriction/Election

By this Amendments, Applicant has cancelled previously withdrawn claims 1-8, 13-14 and 22-34.

C. Rejection on the Merits

1. Rejections under 35 U.S.C. 103

Claims 9, 10, 12 and 15-21 were rejected under 35 U.S.C. 103(a) over Admitted Prior Art (APA) in view of case law for the reasons set forth in section 9 of the previous office action mailed 7/24/2008 and further in view U.S. Pub No. 2001/0016835 to Hansmann et al.

¹ Applicant reserves the right to prosecute any cancelled claim in a subsequent divisional or continuation application.

Claims 9-12 and 15-21 were rejected under 35 U.S.C. 103(a) over US Pub No. 2002/004772 A1 to Templeton et al. in view of the case law for the reasons set forth in section 10 of the previous office action mailed 7/24/2008 in further view of Hansmann et al.

The background section of the application discloses a point of sale terminal, which is a transaction device that allows a merchant to perform an electronic financial transaction. The point of sale device is programmed with the merchant's account information e.g. merchant's name or a unique identification number. However, during the electronic financial transaction, the payer provides the card information such as credit card number and expiration date. (*Application, Para [006 & Para [008]*) The background section further discloses a point of sale terminal that is configured for multiple merchant accounts sharing the device. The individual merchants share the same device in a single location wherein the point of sale terminal is programmed with the merchant's account information associated with the multiple merchants. However, businesses with sales representatives who conduct transactions off-site are not benefitted from such point of sale terminal. (*Application, Para [011]*) *the office action (mailed on 12/30/2008) on page 6 states that "APA does not appear to explicitly disclose that the merchant information is stored separately from the transaction device and transaction data."* Thus, in the prior art, the electronic financial transaction was conducted using a point of sale terminal which is preprogrammed with merchant account information. The cost of purchasing the point of sale terminal is high. (*Application, Para [008] & [009]*).

The transaction device as claimed is operatively coupled with a removable storage device for conducting an electronic financial transaction. The removable storage device is encoded with merchant account information. (*Application, Para [0014] & Para [0015]*). While executing the transaction, the transaction device receives the merchant account information from the storage device and transaction data from a payer. The transaction device as disclosed in the application overcomes the excessive costs of existing financial transaction devices. Further, as the merchant account information is stored separately from the transaction device, therefore different persons acting as merchants can use the same publicly-accessible transaction device. Another advantage of the recited features is that the transaction device allows users to carry out financial transactions more easily. The transaction device, for example, allows a business establishment to receive payment for services, while allowing service provider to receive a tip. (*Application, Para [018], Para [019] & Para [020]*). Significantly, none of the cited art addresses the

particular problem posed by the present invention. Thus, even if some elements of the claims may be found in one or more of the references, one of skill in the art would not be motivated to modify the prior art to result in the claims of the present invention.

In striking contrast to the recited features, the background section discloses that the final transaction involves acquiring transaction data only since the merchant account information is pre programmed into the point of sale terminal. (*Application, Para [008]*) Hence, the background section fails to disclose the method for conducting the transaction through a transaction device connected to a removable storage device that stores the merchant account information.

Templeton discloses systems and methods for verifying a financial instrument or accounts in order to ensure that customer or user attempting to use the financial instrument is the authorized customer/user. The verification is done based on selected details provided by the customer which may vary from one transaction to another, such as, the type of a transaction, the amount of transaction, the merchant name or account used in the previous transaction, etc. (*Templeton, Summary*) When a customer wishes to make a purchase, the merchant implements the verification process. (*Templeton Para [0015]*) Nowhere does Templeton disclose transfer of the transaction data (payer's/customer's credit card information etc.) and merchant account information to an acquirer. There is no mention in Templeton about a transaction device connected to removable storage device programmed with merchant account information for conducting an electronic financial transaction. Hence, Templeton fails to disclose the claimed elements.

Hansmann discloses a method of payment in a purchasing action performed by means of an electronic communication device between a customer and a provider. The customer sends a purchase order to the provider via the electronic communication device by establishing a connection. The provider receives user ID data via a data channel for verifying the customer. (*Hansmann, Para [0020]*) Nowhere does Hansmann disclose a transaction device operatively coupled to a removable storage device. Moreover, there is no mention in Hansmann about transfer of merchant account information and transaction data of customer from the transaction device to an acquirer for executing an electronic financial transaction. Hence, Hansmann fails to disclose the recited features.

Correspondingly, neither APA nor Templeton nor Hansmann either individually or in combination disclose the recited features. As such, Applicant respectfully submits that independent claim 9 as amended distinguishes over the cited art and requests that the obviousness rejection be withdrawn.

Dependent claims 10, 12, 15-21 depend from independent claim 9 and thus incorporate the elements thereof. As such, Applicant respectfully submits that claims 10, 12, 15-21 are distinguishable over the prior art for at least the same reasons discussed above with respect to claim 9 and request that the obviousness rejection with respect to these claims be withdrawn.

D. New Claims

By this response, Applicant has added new independent claim 35. Applicant submits that new claim 35 is based in the originally filed specification and/or claims and that no new matter has been added. Independent claim 35 is similar to claim 9, but does not require a merchant database. Applicant respectfully submits that new claim 35 is allowable over the prior art. As such, Applicant respectfully requests entry and allowance of new claim 35.

E. Conclusion

In view of the foregoing, and consistent with the tentative agreement reached during the Examiner Interview, Applicants believe the claims as amended are in allowable form.

Applicant notes that this response does not discuss every reason why the presented claims are distinguished over the cited prior art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited prior art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited prior art.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise

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been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 19th day of March 2009.

Respectfully submitted,

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SDJ: vlr